

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RINAT HAFIZOV,

X

Plaintiff,

:

- against -

:

BDO USA, LLP, et al,

:

Defendants.

:

22-CV-8853 (JPC) (RWL)

ORDER

X

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves the parties' dispute, presented at Dkt. 83, regarding Plaintiff's designation of approximately 2,500 text message documents as Confidential under the protective order governing confidential information agreed to by the parties and so-ordered by the Court.

Plaintiff may appropriately designate as Confidential information that is "personal or intimate" in nature and constitutes "previously un-disclosed sensitive information." (Protective Order at 2(a)(c).) A number of Plaintiff's text messages no doubt may qualify under those criteria and justify designation as Confidential. Plaintiff may not, however, simply apply a Confidential designation to the entire group of text messages, particularly as they apparently entirely or mostly reflect communications with other of Defendant's employees. Instead, as the designating party, Plaintiff has the obligation to make a document-by-document assessment as to whether the Confidential designation is warranted. Accordingly, by July 28, 2023, Plaintiff shall (1) review all text messages designated as Confidential and make a text-by-text assessment of whether it should be designated as such; and (2) provide Defendant with a written list of all text messages that have been designated. To the extent Defendants then have individual challenges to

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designation of particular texts, they may follow the procedure dictated by the Protective Order.

The Court agrees with Plaintiff that the question of whether information should be filed under seal is a different question governed by a different standard.

The Clerk of Court is respectfully requested to terminate the letter motion at Dkt. 83.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: July 14, 2023
New York, New York

Copies transmitted this date to all counsel of record.